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THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Written statement submitted by International Educational Development, Inc., a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[19 March 1998]

1. On 6 February 1998 Secretary-General Kofi Annan stated, before the Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, that the right to self-determination has been established as the right of peoples to choose to be independent, to be associated with another State, or to integrate with another State. Therefore, there was no formula which should be imposed. The Secretary-General also pointed out the goal of eradicating colonialism by the year 2000.

2. International Educational Development is acutely aware that the failure to choose freely is at the core of many of the current armed conflicts. If the goal of achieving the end of colonialism by the year 2000 is to be met, the international community must begin a rigorous and objective review of these conflicts and take decisive action. In our annual report, Armed Conflict in the World Today: A Country by Country Review, viable self-determination claims are a key factor in 17 of the 34 major wars: Aceh, Armenia/Azerbaijan, Bosnia and Herzegovina, Bougainville, Chechnya, Cyprus, East Timor, Georgia, the Israeli Occupied Territories and southern Lebanon, Kashmir, the Moluccas, Myanmar, Sri Lanka, Tibet, Turkey and Western Sahara.

3. While all these situations require the most serious attention of the international community, we set out two of them here because they are especially troublesome due to their long duration and in light of United Nations affirmation of the right to self-determination for the peoples in question: Kashmir and the Moluccas.

Kashmir

4. Because of the crisis situation between India and the newly formed Pakistan arising from India's military seizure of Kashmir in 1947, in 1948 the United Nations Security Council formed the Commission for India and Pakistan (Security Council resolution 39 (1948) of 20 January 1948). That Commission determined that the Kashmiri people should determine their own future rule as part of a three-part Peace Plan also involving a ceasefire and a truce with a balanced military withdrawal. The ceasefire took effect on 1 January 1949 and the United Nations Military Observer Group in India and Pakistan (UNMGIP) was established and continues today. The Security Council repeatedly upheld the right of the Kashmiri people to determine their future through a plebiscite, and also affirmed in most strong terms that unilateral acts of India to determine the future of Jammu and Kashmir would not constitute a determination of the Kashmiri people which could only be "expressed through the democratic method of a free and impartial plebiscite conducted under the auspices of the United Nations (Security Council resolution 122 (1957) of 24 January 1957, second preambular paragraph (emphasis added)). This plebiscite has not been held and, accordingly, the status of Kashmir is unresolved.

5. Since 1949 India and Pakistan have gone to war several times, with the unresolved Kashmir question a factor in each war. The 1972 Simla Agreement, ending one of these wars, contains a promise made by each side to establish a process leading to the "final settlement of Jammu and Kashmir" (The Simla Agreement, 2 July 1972 (India/Pakistan)). That process has not occurred; talks taking place during 1997 were suspended with no apparent progress. Both countries continue to exchange gunfire over the "line of control" established

by UNMGIP and forming an unofficial border between Indian-occupied Jammu and Kashmir and Azad Kashmir on the Pakistani side. For example, in November 1997, scores of civilians were killed in a series of clashes over the border. Firing also occurred in February 1998. Both countries are considered to have the capacity to use nuclear weaponry.

6. The Kashmiri people have resisted Indian occupancy throughout the period since 1947. However, since 1990, the resistance has been especially acute in light of measures by successive Indian Governments to suppress Kashmiri aspirations for the plebiscite and self-determination. In the course of its long military occupancy, the Indian forces have abducted and killed, tortured or raped thousands of Kashmiris. Current estimates indicate that as many as 50,000 Kashmiris have lost their lives to the Indian armed forces since 1990. Our organization and many others have documented an appalling list of war crimes and gross violations of human rights in Jammu and Kashmir. At present time, the economy of Kashmir is at a standstill, psychiatric clinics and hospitals are filled with the bereaved and traumatized, and the Indian forces number about 600,000. Indian society must be increasingly aware of the huge cost to India to try to subdue a people intent on exercising its right to self-determination.

7. Following a series of elections in February/March 1998, it is clear that the Kashmiri people will have nothing to do with Indian-engineered elections as a substitute for the promised United Nations-administered plebiscite. Already having rejected Chief Minister Farooq Abdullah because he has been viewed as a puppet of India, the Kashmiri people lean on the All Parties Hurriyet (Freedom) Conference, an umbrella group of many parties and organizations advocating essentially the same programme as the Security Council mandated in 1949. Today, even Farooq Abdullah claims that if the recent elections lead to abrogation of article 370 of the Indian Constitution (granting Kashmir "special status") "they will face a revolt, and the first man who is going to revolt will be Farooq Abdullah." ("India Kashmir chief warns of revolt over autonomy", Reuters, 11 February 1998).

8. There have been some diplomatic overtures between India and Pakistan, including the now-aborted series of talks in 1997, which included resolution of the Kashmir question prominently on the agenda. Also in 1997, the United States urged India to ease its military presence in Kashmir and even offered to mediate - an offer rejected by India. Our organization applauds any initiative to resolve the situation, but must remind the international community that the ultimate responsibility for resolution of the Kashmir question lies with it. The United Nations Security Council set out a plan for the exercise of the will of the Kashmiri people and the United Nations; the Commission on Human Rights and its constituent Governments should insist that this plan be carried out. In this sense, the situation is not a "bilateral concern" as India is fond of saying. We can hardly ask the Kashmiri people to abandon their claim to self-determination simply because the political will is not strong enough in the rest of the international community.

The Moluccas

9. Smaller, less well known, yet also unresolved for nearly the same period is the status of the Moluccas. For centuries independent, the Moluccas were

part of the territory occupied by the Netherlands as part of the Netherlands East Indies. Upon the dissolution of this territory, the Netherlands, the United Nations and what was then to be the United States of Indonesia signed the Round Table Conference Agreements (1949) following extensive action of the Security Council Committee of Good Offices on the Indonesian Question (1947-1949). As a guarantee of the right to self-determination, the component parts of the former Netherlands colonies were to be given the right to exercise an option to "opt out" if they did not wish to join with predominantly Javanese Indonesia. The Security Council's Committee of Good Offices was replaced by the Commission for Indonesia which was to oversee the Conference Agreements.

10. The Moluccan people decided to "opt out" and in 1950 declared the Republik Maluku Selatan (Republic of South Moluccas). In violation of the Round Table Conference Agreements, the newly declared Republic of Indonesia invaded the Moluccas, and by December 1950 the Moluccan forces retreated to Ceram. The United Nations Commission apparently lacked the will to enforce its own agreements, partially evidenced by the fact that many of the documents of the Commission are still held under secrecy status and unavailable to researchers.

11. The situation has festered until today. In 1966, Moluccan leader Chris Soumokil was captured and summarily executed by Indonesian forces. The Moluccan armed forces were sent to the Netherlands by the Netherlands military forces (they were ostensibly considered part of the Netherlands military forces) where they formed the basis for the large Moluccan community in that country and where many receive no pensions for their many years in the Netherlands armed forces. In the Moluccas, the Indonesian authorities have begun programmes all too familiar as an anti-self-determination strategy: Javanese colonizers have been sent in large numbers, diluting or "ethnically cleansing" the Moluccans from their own country. In 1997 there were increased clashes between the still-functioning Moluccan resistance forces and the Javanese army, and the Moluccan people have formed provisional governments.

12. As in the Kashmir situation, it is illegal and clearly unproductive to fail to resolve the crisis in the Moluccas in full accordance with the principle of self-determination. International Educational Development urges the Commission to adopt a resolution calling on Indonesia to abide by the Round Table Conference Agreements and grant the people of the Moluccas the right to determine their own political future in accordance with their national will.